

**SUMMARY OF SIGNIFICANT CRIMINAL ISSUES
PENDING IN THE ILLINOIS SUPREME COURT***

March 29, 2013

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***SUMMARIES OF NEW CASES APPEAR IN BOLD AND WITH AN ASTERISK**

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ACCOUNTABILITY

No. 114994

In re Shelby R., State petition for leave to appeal granted 11/28/12 from 2012 IL App (4th) 110191

Whether an individual can be guilty of a crime by accountability when he or she could not be convicted as a principal. (§1-1)

Defense counsel: Jacqueline Bullard, Springfield OSAD

APPEAL

No. 111835

People v. Colyar, State leave to appeal granted 5/25/11 from 407 Ill. App. 3d 294, 941 N.E.2d 479 (1st Dist. 2010)

Whether the Appellate Court erroneously concluded that the State forfeited the argument that a search of the defendant's car was conducted for purposes of officer safety, where the record showed that the State had argued **Terry** at the first hearing on the motion to suppress. (§2-6(a))

Defense counsel:

No. 114994

In re Shelby R., State petition for leave to appeal granted 11/28/12 from 2012 IL App (4th) 110191

Whether the public-interest exception to the mootness doctrine applies to a question of first impression or only where the law is in disarray or there is conflicting precedent. (§2-6(b))

Defense counsel: Jacqueline Bullard, Springfield OSAD

No. 113475

People v. Martinez, Defense leave to appeal granted 1/25/12 from 2011 IL App (2d) 100498 (No. 2-10-0498, 10/6/11)

Whether the Appellate Court had jurisdiction to entertain a State appeal from the trial court's order of acquittal, which the State contended was a "sham" and should be treated as a dismissal because the State had refused to participate in the trial, where the State participated in jury selection and agreed that if its witnesses did not appear after jury selection it would either move to dismiss or proceed without the witnesses, and after the jury was sworn and given preliminary instructions the trial court granted a motion for a directed verdict when the State declined to make an opening argument or present any evidence. (§2-4(a))

Defense counsel: Darren Miller, Elgin OSAD

No. 114639

People v. Johnson, Defense leave to appeal granted 9/26/12 from 2012 IL App (1st) 111378 (No. 1-11-1378, 6/19/12)

Whether the trial court erred by assessing a \$50 State's Attorney fee for filing a frivolous §2-1401 petition, where the plain language of 55 ILCS 5/4-2002.1 authorizes such a fee only in cases "of *habeas corpus* in which the people are interested," but the Appellate Court held that "*habeas corpus*" is a generic term authorizing the fee in any collateral proceedings. (§2-6(c))

Defense counsel: Yasaman Navai, Chicago OSAD

***No. 115459**

People v. Bailey, Defense petition for leave to appeal granted 3/27/13 from 2012 IL App (2d) 110209

1. Whether the revestment doctrine can serve to confer jurisdiction on the circuit court to consider an untimely-filed post-plea motion. (§2-2(b))

2. Whether the State's active participation without objection in the proceedings on an untimely-filed post-plea motion functions to revest jurisdiction in the circuit court where the State opposes the motion on its merits. (§2-2(b))

Defense counsel: Jaime Montgomery, Elgin OSAD

***No. 115595**

People v. Davis, State leave to appeal granted 3/29/13 from unpublished order (2012 IL App (1st) 112577-U)

Whether *Miller v. Alabama*, 567 U.S. ___, 132 S.Ct. 2455 (2012), which held that the Eighth Amendment prohibits a sentence of mandatory life without parole for children who were under the age of 18 at the time of their crimes, applies retroactively to cases which were final when *Miller* was announced. (§2-6(e))

Defense counsel: Brittany D. Parling, Chicago

COLLATERAL REMEDIES

No. 106311

People ex rel. Devine v. Linn, (*Mandamus/Prohibition*)

Whether the State may obtain review of a constitutional ruling – that the mandatory sentence violated the proportionate penalties clause – by seeking a writ of *mandamus* or prohibition rather than by taking a direct appeal. (§9-3)

Defense counsel:

No. 113307

People v. Coleman, Defense leave to appeal granted 1/25/12 from 2011 IL App (3d) 100419-U (No. 3-10-0419, 8/25/11)

1. Whether a post-conviction petitioner who raised a claim of actual innocence was entitled to a new trial where five newly discovered witnesses admitted their guilt of the crime and completely exculpated the petitioner, because the newly discovered evidence would likely have been believed by a reasonable jury and would have compelled an acquittal. (§9-1(c))

2. Whether the test to be applied by the post-conviction court to a claim of actual innocence based on newly-discovered evidence includes consideration of two factors - whether the newly discovered evidence of innocence would result in an acquittal if believed, and if so, whether a reasonable jury could have believed the evidence. (§9-1(c))

Defense counsel: Karen Daniel, Center on Wrongful Convictions, Bluhm Legal Clinic, Chicago

No. 113688

People v. Domagala, Defense petition for leave to appeal granted 3/28/12 from 2011 IL App (1st) 092905-U

Whether a post-conviction petition made a substantial showing of prejudice due to counsel's ineffectiveness in failing to investigate a defense of gross medical negligence to a charge of first-degree murder, where defendant had only committed a battery on the deceased, the cause of death was an infection resulting from the deceased repeatedly pulling out a feeding tube, and the petition was supported by the affidavit of an expert that insertion of the feeding tube was gross medical negligence. (§9-1(f))

Defense counsel: Shawn O'Toole, Chicago OSAD

No. 114639

People v. Johnson, Defense leave to appeal granted 9/26/12 from 2012 IL App (1st) 111378 (No. 1-11-1378, 6/19/12)

Whether the trial court erred by assessing a \$50 State's Attorney fee for filing a frivolous §2-1401 petition, where the plain language of 55 ILCS 5/4-2002.1 authorizes such a fee only in cases "of *habeas corpus* in which the people are interested," but the Appellate Court held that "*habeas corpus*" is a generic term authorizing the fee in any collateral proceedings. (§§9-1(n), 9-2(a), 9-4)

Defense counsel: Yasaman Navai, Chicago OSAD

***No. 115595**

People v. Davis, State leave to appeal granted 3/29/13 from unpublished order (2012 IL App (1st) 112577-U)

Whether *Miller v. Alabama*, 567 U.S. ___, 132 S.Ct. 2455 (2012), which held that the Eighth Amendment prohibits a sentence of mandatory life without parole for children who are under the age of 18 at the time of their crimes, applies retroactively to cases which were final when *Miller* was announced. (§9-5(d))

Defense counsel: **Brittany D. Parling**, Chicago

CONFESSIONS

No. 115102

People v. Patterson, State petition for leave to appeal granted 1/30/13 from 2012 IL App (1st) 101573

Whether the statement of a minor who is a DCFS ward should be suppressed where the police fail to notify the minor's non-custodial parents of the minor's arrest. (§10-5(c)(2))

Defense counsel: **Christopher Kopacz**, Chicago OSAD

CONTEMPT OF COURT

No. 113482

People ex rel. City of Chicago v. LaMirage, Hollins & Kyles, City leave to appeal granted 3/28/12 from 2011 IL App (1st) 093547

Whether in reviewing defendants' convictions for indirect criminal contempt for wilfully violating building court orders, the Appellate Court erred by failing to: (1) apply the criminal standard of review – whether any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt, and (2) show sufficient deference to the findings of the trier of fact. (§12-1)

Defense counsel:

COUNSEL

No. 113140

People v. Hale, State leave to appeal granted 5/30/12 from unpublished order 2011 IL App (1st) 090110-U (7/15/11)

1. Whether the defendant was denied the effective assistance of counsel when he decided to reject a plea offer for 15 years imprisonment after counsel erroneously told him that the maximum sentence he faced was 30 years and that consecutive sentences would be improper, but in fact consecutive sentences were mandatory and if convicted defendant faced a potential maximum sentence of 120 years imprisonment. (§13-4(b)(2))

2. Whether defendant satisfied the prejudice requirement of **Strickland** where he rejected a plea offer of 15 years after counsel gave him erroneous advice concerning the potential maximum sentence, defendant testified that he “would have been inclined” to accept the 15-year offer had he known that consecutive sentences were mandatory, trial counsel admitted that his estimate concerning the potential maximum sentence was off by 90 years, counsel admitted that he mistakenly told defendant that consecutive sentences would be improper when in fact they were mandatory, and when informed of the State’s offer defendant instructed counsel to make a counteroffer of 12 years. (§13-4(b)(2))

Defense counsel: Robert Stephenson, Chicago

No. 113730

People v. Guzman, State petition for leave to appeal granted 3/28/12 from 2011 IL App (3d) 090464

Whether the potential for defendant to be deported satisfies the prejudice prong of an ineffectiveness claim based on counsel’s failure to advise defendant of the immigration consequences of his guilty plea. (§13-4(b)(2))

Defense counsel: Andrew Boyd, Ottawa OSAD

DOUBLE JEOPARDY

No. 113475

People v. Martinez, Defense leave to appeal granted 1/25/12 from 2011 IL App (2d) 100498 (No. 2-10-0498, 10/6/11)

Whether the Appellate Court had jurisdiction to entertain a State appeal from the trial court's order of acquittal, which the State contended was a "sham" and should be treated as a dismissal because the State had refused to participate in the trial, where the State participated in jury selection and agreed that if its witnesses did not appear after jury selection it would either move to dismiss or proceed without the witnesses, and after the jury was sworn and given preliminary instructions the trial court granted a motion for a directed verdict when the State declined to make an opening argument or present any evidence. (§17-4)

Defense counsel: Darren Miller, Elgin OSAD

EVIDENCE

No. 114197

People v. Radojcic, Defense petition for leave to appeal granted 9/26/12 from 2012 IL App (1st) 102698 (consolidated with **People v. Radojcic**, No. 114214, petition for leave to appeal of Mark Helfand granted 9/26/12 from 2012 IL App (1st) 102698

Whether the self-interested grand jury testimony of a co-defendant satisfied the State's burden to establish a reasonable basis to suspect there exists a crime-fraud exception to the attorney-client privilege, where the content of the attorney-client communication is unknown and the court conducted no *in camera* review of the communication. (§19-26(b))

Defense counsel: Emily Wood, Chicago OSAD (for Radojcic)

Leonard C. Goodman and Melissa A. Matzak, Chicago (for Helfand)

No. 114491

People v. Trzeciak, State petition for leave to appeal granted 9/26/12 from 2012 IL App (1st) 100259

Whether the admission of evidence of defendant's abuse and threats against his wife and the murder victim violated the marital privilege. (§19-26(a))

Defense counsel: Jennifer Bontrager, Chicago OSAD

No. 115171

People v. Pikes, State petition for leave to appeal granted 1/30/13 from 2012 IL App (1st) 102274

Whether the State must make a threshold showing of defendant's involvement in a prior shooting for evidence of that shooting to be admitted as other-crime evidence to prove motive and intent. (§19-24(a))

Defense counsel: Amanda Ingram, Chicago OSAD

FORGERY

No. 114196

People v. Brown, Defense petition for leave to appeal granted 9/26/12 from 2011 IL App (1st) 101391-U

Whether a defendant commits forgery by "making or altering" a check, in violation of 720 ILCS 5/17-3(a)(1), by endorsing her own name on the reverse side of a fraudulent check upon which she is the named payee, without proof that she created the check. (Ch. 22)

Defense counsel: Benjamin Wolowski, Chicago OSAD

GUILTY PLEAS

No. 113140

People v. Hale, State leave to appeal granted 5/30/12 from unpublished order 2011 IL App (1st) 090110-U (7/15/11)

1. Whether the defendant was denied the effective assistance of counsel when he decided to reject a plea offer for 15 years imprisonment after counsel erroneously told him that the maximum sentence he faced was 30 years and that consecutive sentences would be improper, but in fact consecutive sentences were mandatory and if convicted defendant faced a potential maximum sentence of 120 years imprisonment. (§24-1)

2. Whether defendant satisfied the prejudice requirement of **Strickland** where he rejected a plea offer of 15 years after counsel gave him erroneous advice concerning the potential maximum sentence, defendant testified that he "would have been inclined" to accept the 15-year offer had he known that consecutive

sentences were mandatory, trial counsel admitted that his estimate concerning the potential maximum sentence was off by 90 years, counsel admitted that he mistakenly told defendant that consecutive sentences would be improper when in fact they were mandatory, and when informed of the State's offer defendant instructed counsel to make a counteroffer of 12 years. (§24-1)

Defense counsel: Robert Stephenson, Chicago

No. 113730

People v. Guzman, State petition for leave to appeal granted 3/28/12 from 2011 IL App (3d) 090464

Whether defendant may raise for the first time on appeal from the denial of a motion to withdraw the plea, a claim of ineffective assistance of counsel for failure to advise defendant of the immigration consequences of his guilty plea, where the record is silent as to counsel's advice. (§24-8(b)(1))

Defense counsel: Andrew Boyd, Ottawa OSAD

No. 115329

People v. Tousignant, State leave to appeal granted 1/30/13 from 2012 IL App (4th) 120650-U

Whether Supreme Court Rule 604(d), which provides that when representing a guilty plea defendant on a post-plea motion defense counsel must file a certificate stating that he or she has "consulted with the defendant either by mail or in person to ascertain defendant's contentions of error in the sentence or the entry of the plea of guilty," was satisfied where the certificate of an attorney who represented defendant on a motion to reconsider the sentence imposed on an open guilty plea stated that counsel consulted with defendant "to ascertain Defendant's contention of error in the sentence imposed herein," without indicating whether defendant was consulted concerning the possibility of filing a motion to withdraw the plea. (§§24-8(b)(1), 24-8(b)(2))

Defense counsel: Nancy Vincent, Springfield OSAD

***No. 115459**

People v. Bailey, Defense petition for leave to appeal granted 3/27/13 from 2012 IL App (2d) 110209

Whether the revestment doctrine can serve to confer jurisdiction on the circuit court to consider an untimely-filed post-plea motion. (§24-8(a))

Defense counsel: Jaime Montgomery, Elgin OSAD

INDICTMENTS, INFORMATIONS, COMPLAINTS

***No. 115581**

People v. Easley, State petition for leave to appeal granted 3/27/13 from 2012 IL App (1st) 110023

Whether 725 ILCS 5/111-3(c) requires that the State give notice that it seeks to enhance a Class 3 UUW by a felon to a Class 2 UUW by a felon, where the charge itself alleges that defendant has a prior conviction for UUW by a felon, which requires that defendant be sentenced as a Class 2 felon. (§29-4(a))

Defense counsel: Levi Harris, Chicago OSAD

JUVENILE

No. 110810

In re Danielle J., Direct appeal (Cook)

1. Whether 705 ILCS 405/5-615(1)(b) violates the separation of powers doctrine and equal protection because it requires the consent of the prosecutor before the trial court may order a continuance under supervision in a delinquency case. (§33-6(f)(1))

2. Whether the minor had standing to challenge §615(1)(b) where the trial court pronounced the minor guilty before the State raised an objection to a continuance under supervision, because a continuance under supervision is authorized only before a finding of guilt is made. (§33-6(f)(1))

Defense counsel: Lester Finkle, Cook County Public Defender's Office

No. 112118

In re Tyrees C., Direct appeal (Cook County)

Whether the separation of powers doctrine, equal protection, and the right to due process are violated by 705 ILCS 405/5-615(1)(b), which allows the State's Attorney's office to preclude supervision in a delinquency case by raising an objection. (§33-6(f)(1))

Defense counsel: Cook County Public Defender

No. 113776

In re M.I., Defense petition for leave to appeal granted 3/28/12 from 2011 IL App (1st) 100865

1. Whether the requirement of the extended-juvenile-jurisdiction statute that a hearing be conducted within a particular time frame on the State's motion to designate the proceeding as an extended-juvenile-jurisdiction proceeding is mandatory or directory. (§33-6(e))

2. Whether the extended-juvenile-jurisdiction statute is unconstitutionally vague in that it does not provide fair warning of the conduct that is prohibited and fails to provide adequate guidance to authorities called upon to enforce its provisions. (§33-6(e))

Defense counsel: Emily Filpi, Chicago OSAD

No. 113908

In re B.C.P., State leave to appeal granted 5/30/12 from 2012 IL App (3d) 100921 (No. 3-10-0921, 1/23/12)

Whether Supreme Court Rule 604(a), which authorizes the State to file an interlocutory appeal from the suppression of evidence which substantially impairs the State's ability to prosecute the case, applies in juvenile delinquency proceedings. (§33-7(b))

Defense counsel: Kerry Bryson, Ottawa OSAD

***No. 114463**

In re Derrico G., Direct appeal (Cook)

Whether 705 ILCS 405/5-615(1)(b) violates the separation of powers doctrine, equal protection, and due process because it requires the consent of the prosecutor before the trial court may order a continuance under supervision in a delinquency case. (§33-6(f)(1))

Defense counsel: James Jacobs, Chicago

***No. 115595**

People v. Davis, State leave to appeal granted 3/29/13 from unpublished order (2012 IL App (1st) 112577-U)

Whether *Miller v. Alabama*, 567 U.S. ___, 132 S.Ct. 2455 (2012), which held that the Eighth Amendment prohibits a sentence of mandatory life without parole for children who are under the age of 18 at the time of their crimes, applies retroactively to cases which were final when *Miller* was announced. (§§33-6(d), 33-9)

Defense counsel: Brittany D. Parling, Chicago

SEARCH & SEIZURE

No. 108523

People v. Prinzing, State leave to appeal granted 9/30/09 from 389 Ill. App. 3d 923, 907 N.E.2d 87 (2d Dist. 2009)

Whether an officer's discovery of apparent child pornography on the hard drive of defendant's computer was beyond the scope of defendant's consent to search the computer, which allowed a search for evidence of computer viruses or any indication that defendant's credit card information had been compromised. (§44-11(a))

Defense counsel:

No. 111835

People v. Colyar, State leave to appeal granted 5/25/11 from 407 Ill. App. 3d 294, 941 N.E.2d 479 (1st Dist. 2010)

Whether a bullet observed in plain view on the center console of an automobile provides probable cause to search the defendant and the car for a weapon. (§§44-6(d), 44-6(e))

Defense counsel:

No. 113221

People v. Allison, Direct appeal (Crawford)

Whether the Illinois Eavesdropping Statute (720 ILCS 5/14-2(a)(1)), which prohibits recording conversations without the consent of all parties thereto, violates substantive due process because it lacks a culpable mental state and subjects wholly innocent conduct to prosecution, and violates the First Amendment because it creates an absolute prohibition against citizens making audio recordings of public officials performing their public duties. (§44-17)

Defense counsel: William Sunderman, Charleston

No. 113449

People v. Fitzpatrick, Defense leave to appeal granted 1/25/12 from 2011 IL App (2d) 100463 (No. 2-10-0463, 11/3/11)

Whether the Illinois Constitution authorizes an arrest, and a full custodial search incident to that arrest, for commission of a petty offense which is punishable by fine only. (§44-5(a))

Defense counsel: Barb Paschen, Elgin OSAD

No. 113600

People v. Cregan, Defense leave to appeal granted 3/28/12 from 2011 IL App (4th) 100477

1. Whether **People v. Hoskins**, 101 Ill. 2d 209, 461 N.E.2d 941 (1984), which held that an arrestee's purse may be searched incident to her arrest because the purse is immediately associated with her person

even if it cannot be accessed by the arrestee, survived **Arizona v. Gant**, 556 U.S. 332 (2009), which held that an automobile cannot be searched incident to the arrest of a recent occupant if the arrestee has been secured in a location from which there is no possibility that she will gain access to the vehicle. (§§44-13, 44-18)

2. Whether the Appellate Court erred by finding that **Arizona v. Gant**, 556 U.S. 332 (2009), which held that an automobile cannot be searched incident to the arrest of a recent occupant if the arrestee has been secured in a location from which there is no possibility that she will gain access to the vehicle, applies only to vehicle searches, because citizens will be afforded less protection in their luggage and its contents than they have in their vehicles, which carry a lesser expectation of privacy. (§§44-13, 44-18)

Defense counsel: Amber Gray, Springfield OSAD

No. 114023

People v. Drew, Direct appeal (Cook)

Whether the Illinois Eavesdropping Statute (720 ILCS 5/14-2), which prohibits recording conversations without the consent of all parties thereto, violates substantive due process because it lacks a culpable mental state and subjects wholly innocent conduct to prosecution. (§44-17)

Defense counsel: Joshua Kutnick, Chicago

No. 114040

People v. Henderson, Defense petition for leave to appeal granted 5/30/12 from 2012 IL App (1st) 101494

Whether contraband dropped by a suspect while fleeing from the police following his illegal seizure is subject to suppression as the fruit of the unlawful seizure, or does the suspect's flight purge the taint of the illegality. (§§44-1(a), 44-18)

Defense counsel: Brian Koch, Chicago OSAD

No. 114852

People v. Melongo, Direct appeal (Cook)

Whether the Illinois Eavesdropping Statute (720 ILCS 5/14 *et seq.*) is unconstitutional on its face and as applied because it is vague, makes innocent conduct subject to prosecution, lacks a culpable mental state, and violates substantive due process under the United States and Illinois Constitutions. (§44-17)

Defense counsel: Timothy J. Storm, Wauconda

SEX OFFENSES

No. 113510

People v. Lloyd, Defense leave to appeal granted 3/28/12 from 2011 IL App (4th) 100094

Whether the State's evidence proved a violation of 720 ILCS 5/12-13(a)(2), which defines the offense of criminal sexual assault as an act of sexual penetration where the accused "knew that the victim was unable to understand the nature of the act or was unable to give knowing consent," where the complainant did not suffer from a mental defect or physical impairment and, under the State's theory, was unable to give knowing consent solely because she was under the age of legal consent. (§46-2(a))

Defense counsel: Ryan Wilson, Springfield OSAD

No. 115102

People v. Patterson, State petition for leave to appeal granted 1/30/13 from 2012 IL App (1st) 101573

Whether the constitutional exception to the rape-shield statute permits evidence of the prior sexual activity of the complainant to be admitted to provide an alternative innocent explanation for her physical condition. (§46-1(b))

Defense counsel: Christopher Kopacz, Chicago OSAD

SPEEDY TRIAL

No. 113216

People v. Lacy, State leave to appeal granted 1/25/12 from 2011 IL App (5th) 100347 (No. 5-10-0347, 9/20/11)

Whether 725 ILCS 5/103-5(c), which authorizes the trial court to continue the cause for “not more than an additional 60 days” if the State has unsuccessfully exercised due diligence to obtain evidence material to the case, limits the State to seeking a single 60-day extension or was intended to authorize multiple continuances so long as each is not more than 60 days. (§47-5)

Defense counsel: Paul Christenson, Murphysboro and Christian Baril, Carbondale

No. 114100

People v. Hunter, State petition for leave to appeal granted 5/30/12 from 2012 IL App (1st) 092681

Whether the same-elements test governs whether charges are subject to compulsory joinder as based on the same act, and thus are also subject to the same speedy-trial term. (§47-1(b))

Defense counsel: Amanda Ingram, Chicago OSAD

STATUTES

No. 110810

In re Danielle J., Direct appeal (Cook)

1. Whether 705 ILCS 405/5-615(1)(b) violates the separation of powers doctrine and equal protection because it requires the consent of the prosecutor before the trial court may order a continuance under supervision in a delinquency case. (§§48-3(c), 48-3(i))

2. Whether the minor had standing to challenge §615(1)(b) where the trial court pronounced the minor guilty before the State raised an objection to a continuance under supervision, because a continuance under supervision is authorized only before a finding of guilt is made. (§48-1)

Defense counsel: Lester Finkle, Cook County Public Defender's Office

No. 113776

In re M.I., Defense petition for leave to appeal granted 3/28/12 from 2011 IL App (1st) 100865

1. Whether the requirement of the extended-juvenile-jurisdiction statute that a hearing be conducted within a particular time frame on the State's motion to designate the proceeding as an extended-juvenile-jurisdiction proceeding is mandatory or directory. (§48-1)

2. Whether the extended-juvenile-jurisdiction statute is unconstitutionally vague in that it does not provide fair warning of the conduct that is prohibited and fails to provide adequate guidance to authorities called upon to enforce its provisions. (§48-3(b))

Defense counsel: Emily Filpi, Chicago OSAD

No. 114639

People v. Johnson, Defense leave to appeal granted 9/26/12 from 2012 IL App (1st) 111378 (No. 1-11-1378, 6/19/12)

Whether the trial court erred by assessing a \$50 State's Attorney fee for filing a frivolous §2-1401 petition, where the plain language of 55 ILCS 5/4-2002.1 authorizes such a fee only in cases "of *habeas corpus* in which the people are interested," but the Appellate Court held that "*habeas corpus*" is a generic term authorizing the fee in any collateral proceedings. (§48-1)

Defense counsel: Yasaman Navai, Chicago OSAD

TRAFFIC OFFENSES

No. 115308

People v. Elliott, State leave to appeal granted 1/30/13 from 2012 IL App (5th) 100584

Whether an order rescinding the summary suspension of a driver's license renders the suspension void *ad initio*, so that the defendant cannot be convicted of aggravated DUI based upon a suspended license where he successfully challenged the suspension but the rescission order was handed down after the incident which resulted in the aggravated DUI charge. (§50-3)

Defense counsel: Edward Unsell, East Alton

TRIAL JOINDER AND SEVERANCE

No. 114100

People v. Hunter, State petition for leave to appeal granted 5/30/12 from 2012 IL App (1st) 092681

Whether the same-elements test governs whether charges are subject to compulsory joinder as based on the same act. (§51-2)

Defense counsel: Amanda Ingram, Chicago OSAD

UNLAWFUL USE OF WEAPONS

No. 112116

People v. Aguilar, Defense leave to appeal granted 5/25/11 from 408 Ill. App. 3d 136, 944 N.E.2d 816 (1st Dist. 2011)

Whether the Second Amendment right to bear arms, as interpreted by **District of Columbia v. Heller**, 554 U.S. 570 (2008) and **McDonald v. City of Chicago**, 561 U.S. ___, 130 S. Ct. 3020, 177 L.Ed.2d 894 (2010), is violated by the Illinois aggravated unlawful use of a weapon statute, which at the time of defendant's conviction prohibited (in most circumstances) carrying firearms which were uncased, loaded and immediately accessible. (§§53-1, 53-5(b))

Defense counsel: David Holland, Chicago OSAD